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SPECIAL COMMITTEE ON ENHANCING THE EFFECTIVENESS OF THE PRINCIPLE OF NON-USE OF FORCE IN INTERNATIONAL RELATIONS

SUMMARY RECORD OF THE 3rd MEETING

Held at Headquarters, New York,
on Wednesday, 23 August 1978, at 10.30 a.m.

Chairman: Mr. CUEVAS CANCINO (Mexico)

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General debate

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The meeting was called to order at 11 a.m.

GENERAL DEBATE

1. The CHAIRMAN drew attention to the "Draft World Treaty on the Non-use of Force in International Relations: proposal submitted by the Union of Soviet Socialist Republics" (A/AC.193/L.3), which had been circulated at the meeting.

2. Mr. KOLESNIK (Union of Soviet Socialist Republics) said his delegation hoped that the members of the Committee would take a constructive approach to the exceptionally important task entrusted to them by the General Assembly so as to attain positive results. He recalled that the adoption of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States and of the Definition of Aggression had been made possible by a spirit of co-operation and compromise and a desire to achieve progress in the common cause of strengthening international peace and security, and he hoped that the same spirit would prevail in the Committee.

3. The Soviet Union's position on the question of concluding a world treaty on the non-use of force in international relations was well known; the idea of concluding such a treaty, which had been put forward by the General Secretary of the Central Committee of the Communist Party of the Soviet Union and Chairman of the Presidium of the Supreme Soviet of the USSR, Mr. L. I. Brezhnev, had already met with approval and support not only among the broadest circles of world public opinion but also among the overwhelming majority of States Members of the United Nations. The relevant resolutions adopted at the thirty-first and thirty-second sessions of the General Assembly and the statements of delegates at plenary meetings and at meetings of the First and Sixth Committees, as well as the comments submitted by Governments, showed broad recognition of the timeliness and importance of the Soviet proposal and the belief that the draft treaty submitted by the Soviet Union in 1976 could serve as a basis for working out a final text of the treaty. Thus, the most favourable possible conditions existed for the success of the Committee's work.

4. The Soviet Government had submitted the draft treaty in the belief, as stated in the letter of 28 September 1976 to the Secretary-General from the Minister for Foreign Affairs of the USSR, Mr. A. A. Gromyko, that the conclusion of a world treaty on the non-use of force in international relations would be a natural continuation of the efforts of the United Nations and its Member States to strengthen international peace and security and would reduce the danger of the outbreak of another world war; that, as a result, more favourable conditions would undoubtedly be created for curbing the arms race, limiting arms, including nuclear arms, and making progress towards general and complete disarmament, and that all States would stand to gain, irrespective of their social systems, the size of their territories or populations, or whether or not they possessed nuclear weapons. Throughout its history, the Soviet State, which had recently celebrated its sixtieth anniversary, had consistently opposed all forms of violence in relations between States and advocated the affirmation of peaceful coexistence in international relations on the basis of the pivotal principle of the non-use of

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force. That had been the unchanging foreign policy of the Soviet State from Lenin's Decree on Peace to the Programme of Peace submitted by the Twenty-Fourth Congress of the Communist Party of the Soviet Union and the programme for the further struggle for peace, international co-operation and the freedom and independence of peoples adopted at the Twenty-Fifth Congress.

5. Considerable progress had been achieved, and the principle of the non-use of force had been recognized by virtually all States as one of the main foundations of international relations. That recognition was reflected in the Charter, which legally confirmed the fundamental principles of contemporary international law. The formulation of the principle of the non-use of force in Article 2, paragraph 4, of the Charter prohibited not only aggressive wars but also the threat or use of force against any State. That key provision of the Charter had been authoritatively confirmed and developed in a number of international instruments, particularly in General Assembly resolutions 2625 (XXV) (Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations), 2936 (XXVII) (Non-use of force in international relations and permanent prohibition of the use of nuclear weapons) and 3314 (XXIX) (Definition of aggression) and in the Final Act of the Conference on Security and Co-operation in Europe. The principle of the non-use of force had also been confirmed in a number of bilateral treaties, agreements and other documents, for example, the agreements of the USSR, the Polish People's Republic, the German Democratic Republic and the Czechoslovak Socialist Republic with the Federal Republic of Germany, the quadripartite agreement on West Berlin, the agreements of the USSR with France and the United States on mutual relations and the agreement between the USSR and the United States on the prevention of nuclear war. All those international instruments, whether multilateral or bilateral, stressed the unconditional obligation of States to resolve their disputes and disagreements by exclusively peaceful means and to refrain from the threat or use of force in international relations.

6. The broad international recognition and legal confirmation of the principle of the non-use of force did not mean, however, that peace-loving States could abandon or relax the struggle for the strict implementation of that principle and the enhancement of its effectiveness. It was important not only to proclaim just principles of relations among States but also to make them a reality in contemporary international relations. The development of post-war international relations had shown that the confirmation of the principle of the non-use of force had not in practice prevented acts of aggression and other breaches of peace. Although for more than three decades mankind had succeeded in preventing a new world war, the world had witnessed over a hundred wars and armed conflicts, in which millions of people had perished, since the entry into force of the Charter. Certain circles in the West still preached the admissibility of "local", "restricted" or "controlled" armed conflicts, even though the constant development of nuclear weapons posed a real threat of the escalation of such conflicts into a world-wide thermo-nuclear war and the danger of such doctrines was recognized by the entire international community. The proposal of the Soviet Union to draft a world treaty on the non-use of force in international relations was aimed

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precisely at averting that threat and ensuring the practical observance of the principle of the non-use of force in international relations; the Soviet delegation considered that the proposal was of decisive significance in the struggle for peace and the strengthening of international détente and that it was the most direct means of ensuring genuine observance of the key obligation of the non-use of force.

7. Although in recent years there had been substantial progress in the world political arena, particularly in developing relations between States with different social systems and in strengthening the principles of peaceful coexistence, there were still active forces at work in the world which were striving to undermine the process of détente, whip up the arms race, create new types of lethal weapons and strengthen the aggressive military blocs and which were trying to revive an atmosphere of mistrust and fear in inter-State relations and exacerbate hotbeds of tension. The contemporary international situation showed that the task of strengthening peace and international security and of resisting imperialist aggression and diktat was a matter of urgency. The Soviet Government believed that the conclusion of a world treaty on the non-use of force in international relations would unquestionably contribute to resolving that problem.

8. The draft World Treaty on the Non-Use of Force in International Relations (A/AC.193/L.3) took into account the fact that the parties would already have taken on the solemn obligation, under the Charter, to maintain peace and settle their disputes by exclusively peaceful means and to refrain from the threat or use of force in their international relations. The main purpose of the draft Treaty was therefore to ensure more effective observance of the obligations entered into under the Charter. Thus, the preamble to the draft stated that the High Contracting Parties were "inspired by the desire to make renunciation of the use or threat of force in international relations involving all types of weapons a law of international life" since the principle of the non-use of force, laid down in the Charter and confirmed in other international instruments, had not yet been sufficiently developed and was not adequately reflected in existing legal norms. Indeed, there was still disagreement among States on the meaning of the term "force" in the United Nations Charter. Since the international instruments concerned with specific normative aspects of the principle of the non-use of force were mainly resolutions of the General Assembly, they were in the form of recommendations.

9. Article I of the draft Treaty reflected that general approach by stressing that the High Contracting Parties should "strictly abide" by their undertaking not to use force or the threat of force under Article 2, paragraph 4, of the Charter. That key obligation was further developed in relation to the objective political and military realities of the present-day world, and the draft Treaty was concerned above all with the renunciation by States of the most dangerous form of the unlawful use of force, namely the use of armed forces involving any types of weapons, including nuclear or other types of weapons of mass destruction. Thus, the draft Treaty was in no way a mere confirmation of the existing obligations of States under the Charter but envisaged that the Parties would take on additional obligations, which, however, would not replace or alter the basic

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obligation under the Charter to refrain from the threat or use of force in the settlement of disputes. As to the question of whether it was appropriate to develop the Charter obligation, there had been many cases in which a basic principle of international law laid down in the Charter had been confirmed and developed in special international instruments, but the adoption of such instruments could not throw doubt on the legal force or authority of the Charter. Indeed, the Charter envisaged the possibility and need for the adoption of special international instruments and, in Article 11, paragraph 1, and Article 13, paragraph 1, empowered the General Assembly to make recommendations in that regard. A clear example of such activity by the United Nations was the codification of the principle of universal respect for human rights and fundamental freedoms laid down in the Charter - first in the Universal Declaration of Human Rights in the form of recommendations and then in a number of international agreements and treaties, including the International Covenants on Human Rights, which had binding legal force. Similarly, in relation to the development of the principle of disarmament, the United Nations had participated actively in drafting the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, the Treaty on the Non-Proliferation of Nuclear Weapons and a number of other agreements. Although the principle of the non-use of force had also been confirmed and developed in General Assembly resolutions and in bilateral and multilateral treaties and agreements, the conclusion of a world treaty would bring together in legally binding form the elements of the principle of the non-use of force developed in other international documents and raise the level of the obligations deriving from that principle on a universal basis.

10. The provisions of article I, paragraph 1, second part, of the draft Treaty were of the utmost importance. The Soviet delegation believed that, since contemporary international law prohibited the use of force in inter-State relations, it was obvious that the use of all types of armed force and weapons, and particularly nuclear and other types of weapons of mass destruction, was covered by that prohibition. The prohibition of the use of all types of weapons was the first and essential step towards the absolute prohibition of the use of particular types of weapons and the solution of the problems of disarmament and the limitation of the arms race. The question of prohibiting the use of any types of weapons for purposes of aggression was logically linked with the "effective measures for lessening military confrontation and for disarmament" called for in article IV. The Soviet draft Treaty's approach to the problem of prohibiting the use of armed forces involving any types of weapons had won broad recognition and was confirmed, for example, in article 3 (b) of the 1974 Definition of aggression, which had been adopted on the basis of consensus.

11. The broad international support for the need to enhance the effectiveness of the principle of the non-use of force, prohibit the use of nuclear weapons and achieve disarmament could be seen from General Assembly resolution 1653 (XVI), the Declaration on the prohibition of the use of nuclear and thermo-nuclear weapons, and General Assembly resolution 2936 (XXVII), to which he had already referred. The Declaration contained in the Final Document of the tenth special session of

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the General Assembly (A/RES/S-10/2) singled out measures designed to prevent the outbreak of nuclear war and to lessen the danger of the threat or use of nuclear weapons among other measures to ensure the survival of mankind and to eliminate the danger of war. The Soviet Government proposed that those solemn declarations of the General Assembly should be given the force of treaty norms so that a real step could be made towards preventing nuclear war and ensuring the true security of mankind. That step was essential in view of the rapid development of science and technology which made possible the creation and improvement of nuclear weapons, the most devastating of all weapons. In the nuclear era there was no alternative to peaceful coexistence and that required, above all, that States should refrain from the use of armed forces involving any types of weapons, including nuclear or other types of weapons of mass destruction.

12. A special characteristic of the Soviet draft was that, in article IV, in article I, paragraph 2, and in article II, third paragraph, it envisaged additional means of ensuring the fulfilment of the key obligation of the non-use of force.

13. The Soviet draft Treaty made direct provision for the Parties to take appropriate measures at the inter-State level so as to ensure compliance with their obligations under the Treaty. It was for precisely that reason that the Soviet Union had included in its new Constitution a special chapter which proclaimed among the basic goals of its foreign policy the struggle for peace and international security, the prevention of aggressive wars and the attainment of general and complete disarmament and which confirmed the adherence of the Soviet Union to the basic principles of international law, including the principle of the non-use of force.

14. The Soviet draft Treaty left no loopholes for evading the basic obligation of the non-use of force in international relations; he drew particular attention in that regard to article I, paragraph 3. At the same time, the draft in no way infringed on the right of States to individual or collective self-defence envisaged in Article 51 of the Charter; under article III in particular, it retained the right of each State to repel aggression and eliminate its consequences. Nothing in the draft Treaty was prejudicial to the right of colonial peoples to independence and freedom, in accordance with the Charter, or to their right to wage a struggle towards those ends and to seek and receive support in accordance with the principles of the Charter. Thus, the main political significance of the draft Treaty was to ensure just and lasting peace and to create additional guarantees of international security as well as favourable conditions and the necessary degree of trust to resolve the most urgent problem of the present day, the ending of the arms race and the achievement of disarmament.

15. The Soviet delegation considered that the draft Treaty could be adopted as a basis for preparing a final text. At the same time, in order to meet the wishes of other States, it was prepared to study carefully all proposals which had been or might be made so as to work out a broadly acceptable text on the basis of consensus. It was convinced that such a treaty would be a major step towards realizing mankind's age-old dream of a world without weapons and without wars and that it would be an effective instrument for the radical improvement of the international situation and the development of normal good-neighbourly relations between States.

The meeting rose at 11.45 a.m.